

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

ROBERT D. POLINO,

Plaintiff,

v.

**CIVIL NO. 1:22-CV-13
(KLEEH)**

THE HUNTINGTON NATIONAL BANK,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION IN PART [ECF NO. 26]
AND REMANDING ACTION TO STATE COURT**

Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred this action to United States Magistrate Judge Michael J. Aloï (the "Magistrate Judge") for initial review. On March 29, 2022, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court remand the case and hold in abeyance the pending motion to dismiss.

The R&R informed the parties that they had fourteen (14) days from the date of the R&R's filing to submit "specific written objections, identifying the portions of the Report and Recommendation to which objection is made, and the basis of such objection." It further warned them that the "[f]ailure to file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals." Plaintiff accepted service of the

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R&R on April 1, 2022. To date, no objections have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R in part [ECF No. 26]. Rather than holding the motion to dismiss in abeyance, the Court hereby **DENIES WITHOUT PREJUDICE** the motion to dismiss [ECF No. 4]. This action is hereby **REMANDED** and **STRICKEN** from the Court's active docket.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record via email and the pro se Plaintiff via certified mail, return receipt requested.

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DATED: April 22, 2022

Handwritten signature of Thomas S. Klee in black ink.

THOMAS S. KLEE, CHIEF JUDGE
NORTHERN DISTRICT OF WEST VIRGINIA